

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

X

DONALD MONTGOMERY, ANDREW CARTER,
LOIS REID, KARL BELCHER, and "M.M.",
as individuals and on behalf of all other persons
similarly situated,

Plaintiffs,

**NOTICE OF MOTION TO
DISMISS**

14-CV-6709 (CJS)

-against-

ANDREW M. CUOMO, Governor of the State of New York,
ANN MARIE T. SULLIVAN, Commissioner of the New
York State Office of Mental Health, MICHAEL C. GREEN,
Executive Deputy Commissioner of the New York State
Division of Criminal Justice Services, JOSEPH D'AMICO,
Superintendent of the New York State Police, VINCENT
F. DEMARCO, Suffolk County Sheriff's Department; and
EASTERN LONG ISLAND HOSPITAL,

Defendants.

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PLEASE TAKE NOTICE that, upon the annexed affirmation of Rudolph M. Baptiste,
Assistant County Attorney for the County of Suffolk, the accompanying Memorandum of Law,
and supporting exhibits defendant the HON. VINCENT F. DeMARCO, SUFFOLK COUNTY
SHERIFF, will move this Court before the Honorable Charles J. Siragusa, U.S. District Judge at
the Rochester Federal Courthouse, 1360 U.S. Courthouse, 100 State Street, Rochester, New
York, on February 23, 2015, for an Order pursuant to 28 U.S.C. §§ 1404 (a) & 1406 (a), Rule
12(b)(3) & 12(b)(6) of the Federal Rules of Civil Procedure granting defendant Sheriff
DeMarco's motion to dismiss for improper venue, and for failure to state a claim and in the
alternative to transfer venue in the interests of justice, and for such other different and further
relief as this Court finds just and proper.

Dated: Hauppauge, New York
February 18, 2015

DENNIS M. BROWN
Suffolk County Attorney
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Rudolph M. Baptiste
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Assistant County Attorney

TO: Paloma A. Capanna, Esq.
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Fumuso Kelly DeVerna Snyder Swart & Farrell, LLP.
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Attn: Catherine A. Brennan, Esq.